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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/557,459 04/24/00 SHOEN

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EXAMINER
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YEAGLEY, D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED:

06/26/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/557,459

Applicant(s)

SHOEN, MARK VINCENT

Examiner

Daniel Yeagley

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-7, 9-13, 15-17, 19, 20, 23, 24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 25 & 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-13, 15-17, 19, 20, 23, 24, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on 14 May 2001 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6, 7, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, 7, 12 and 13, recites the limitation "said first and second angles" which lack sufficient antecedent basis for this limitation in the claim. Note that it is unclear which angle applicant considers as the first and/or second angle, and the claim language is indefinite because it is not clear if each angle has an angle between 1 and 89 degrees or if a combination of the two angles add up to an angle between 1 and 89 degrees, note page 7 of applicants disclosure reads as if the angle of the clearance increasing portion alone has an angle of between 1 and 89 degrees preferably 40-50 degrees and no specific range of angles were denoted to the inner wall.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 9, 19, 20, 23, 24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardwick '808.

Hardwick shows a plurality of fenders 15 and 16 on a trailer or tow dolly (figure 3) which shows a top portion of the fender having opposed inner and outer edges, an outer wall extending downward from the outer edge of the top portion, wherein the inner edge of the fender (at the inner portion of the wheel) shows a clearance increasing portion (angled portion of the fender) depending downward at a non-zero acute angle (figure 2) to an inner wall (figure 1) which depends downward at a non-zero acute angle wherein the angle formed by the top portion and the clearance portion and the angle formed by the clearance portion and the inner wall add up to approximately 90 degrees which has the bottom edges of the top portion, clearance portion and inner wall lying in a common plane (figures 1-3).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 5 - 7, 10 - 13, 15 - 17 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardwick as stated above in view of Nyman '556.

Regarding claims 2, 3, 5 - 7, 10 - 13, 15 - 17 and 28, Hardwick showed a plurality of longitudinally curve shaped fenders having a top portion which has a plurality of

planer sections (figure 1) and a substantially flat middle section with curved end sections (figure 2) wherein an outer wall extends downward from an outer edge of the top portion of the fender and has at an opposed inner edge a clearance increasing portion depending downward at an acute angle between the range of 1 to 89 degrees to an inner wall which depends downward wherein the angles formed by the top portion, the clearance portion and the inner wall add up to approximately 90 degrees and their bottom edges lie in a common plane and figure 1 shows a portion of the clearance increasing portion between the wheels 13 riding on top of the walking beam 11 that has a concave shape but lacked the light housing attached to the top portion and mounted offset a midline of the fender.

Nyman '556 shows a plurality of fenders 10, 11 on a trailer or tow dolly having a light housing 13 mounted to the fender 11 offset from a midline of the fender (figure 2 upper wheel shows the light fixture approximately center with the wheel and figure 3 shows the wheel off-centered with respect to the fender), the external surface of the fender (figure 1) has a shape wherein the light housing comprises a base portion that conforms to at least a portion of the shape of the fender (figures 1 and 2), the light housing having a raised portion adapted to receive a light fixture.

It would have been obvious to have modified the fender of Hardwick with a light housing such as shown in Nyman to provide the trailer dolly with tail lights for added safety and in order to utilized the trailer on public roads to comply with regulations of mounting brake lights to the rear of a trailer as is well known in the art.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-3, 5-7, 9-13, 15 - 17, 19, 20, 23, 24, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection. Hardwick clearly shows a fender with acute angles forming a clearance-increasing portion as now claimed and it would have been obvious to have mounted a light fixture to the top portion of Hardwick fender such as the fender mounted light as shown in Nyman as it is well known in the art to use a light fixture mounted to the fenders of trailers for use of the trailer on public roads for safety regulations.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Julian '293 (figure 2) and Robinette et al '162 (figure 3) show light fixtures mounted to the fenders of trailer dollies,


HITACHI JP'451 (figures 2 and 12) show a fender having an angled clearance increasing portion with an angle between 40- 50 degrees which add up to approximately 90 degrees from the angle formed by the top portion and the clearance portion and the angle formed by the clearance portion and the downwardly extending inner wall.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is 703-305-0838. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

D.Y.  
June 21, 2001

  
BRIAN L. JOHNSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

4/22/01